



WISCONSIN DEPARTMENT OF REVENUE  
SPECIAL PROCEDURES UNIT  
MAIL STOP 5-SPU  
PO BOX 8901  
MADISON WI 53708-8901

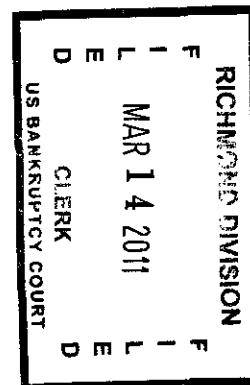
**State of Wisconsin • DEPARTMENT OF REVENUE**

COMPLIANCE BUREAU  
2135 RIMROCK RD PO BOX 8901 MADISON, WI 53708-8901  
PHONE: 608-267-0833 FAX: 608-267-1037  
WEBSITE: [www.revenue.wi.gov](http://www.revenue.wi.gov) HOURS: 7:45 AM - 4:30 PM

March 8, 2011

Letter ID: L0818305728

WTN: 0000341401



CLERK OF THE BANKRUPTCY COURT  
U.S. BANKRUPTCY COURT  
701 E BROAD ST STE 4000  
RICHMOND VA 23219-1849

RE: Circuit City Stores Inc  
Case # 08-35653

This letter is in response to the Liquidating Trustee's Objection to Claim # 12958 filed by the Wisconsin Department of Revenue. The Wisconsin DOR filed a priority claim in the amount of \$100,006.75 and a general unsecured amount of \$152,407.25. This proof of claim pertains to the corporate franchise tax field audit covering the 2004 thru 2005 tax years.

The trustee objects to this claim on the grounds that the amount is not reflected in the books; the claim amount is based on improper or erroneous calculations; and/or did not provide support for the claim amount.

In response to the objection, I have attached copies of the audit worksheet, notice of the assessment, explanations and the auditors notes. Our auditors worked with the debtor throughout this process including discussing the results of the audit.

By attachment of these copies, I request that the proof of claim as filed by the Wisconsin DOR be allowed. I also request that the trustee contact me to resolve this matter. The complete audit report can be provided.

Sincerely,

Hiram Cutting  
Revenue Agent  
608-267-0833  
[hiram.cutting@revenue.wi.gov](mailto:hiram.cutting@revenue.wi.gov)

Enclosure

cc: Jeffrey N. Pamerantz, Andrew W. Caine,  
Lynn L. Tavenner, Paula S. Beran

WISCONSIN DEPARTMENT OF REVENUE  
INCOME, SALES & EXCISE TAX DIVISION

Circuit City Stores, Inc.  
# 200-0000341401-02

EXPLANATIONS OF ADJUSTMENTS ON EXHIBIT C

ADJ #.    EXPLANATION

- 3) The transfer and leaseback of the intangible assets was a sham and could be disregarded under the "sham transaction" doctrine.
- 4) The transactions leading to the royalty expense had no economic substance and are disregarded under the doctrine of "substance over form." Gregory v. Helvering, 293 U.S. 465, 55 S.Ct. 266, 79 L.Ed. 596 (1935).

Per computation shown on Schedule 3, a deduction is allowed for 52.7% of the inter-company royalty expense deduction in accordance with the settlement reached for the prior audit cycle.

- 6.-7. An adjustment is made to include in gross income imputed interest on loans and advances to affiliates pursuant to sections 71.30(2) and 71.80(1)(b) of the 2005-2006 Wisconsin Statutes and section 482 of the IRC. An adjustment is also made to correct the allowable interest expense deduction on the inter-company loans and advances under the same statutory regulations. The interest rates as provided by section 482 of the IRC are applied to the average net inter-company or affiliated balances for each fiscal year to arrive at the amount of imputed interest income and deduction. See Schedule 4 for the computation details.
8. An adjustment is made to include the applicable Internal Revenue Service audit adjustments in this report for the fiscal years shown pursuant to the taxpayer correspondence of January 2009 in notification of the finalized federal audit report. See detail of the adjustments on Schedule 5.
9. The federal taxable income reported for Wisconsin for FYE 2/28/07 is corrected to the proper amount.

Circuit City Stores, Inc.

A 1

**AUDITOR'S COMMENTS**

8. **REASON FOR LIMITATION OR EXTENSION OF SCOPE** - The field audit assignment was made in May 2007 under the "reaudit" source, with the prior audit cycle explained above in comment # 7. The initial contact with the taxpayer was made in January 2008, and the field work commenced in July 2008. FYE 2/28/03 was still open to adjustment as explained in # 7 above and due to being a "loss" year. A waiver was obtained for FYE 2/28/04 due to taxpayer delays as explained above, with the waiver deadline currently at March 31, 2009 for this report.
9. **EVIDENCE CONSIDERED IN PENALTY IMPOSITIONS** - There is no penalty recommendation for this audit.
10. **NEGOTIATIONS, SPECIFIC OBJECTIONS AND POSSIBILITY OF APPEAL** - Due to time constraints and the bankruptcy process, a copy of the finalized proposed audit was given to Mr. Ewell at Circuit City Stores with the comment that the audit report was being submitted immediately to Wisconsin for final supervisory review and processing due to the waiver deadline and the need to file the bankruptcy claim by early May 2009.
11. **NO CHANGE REPORT JUSTIFICATION** - Not applicable.
12. **SUGGESTIONS FOR NEXT AUDIT** - Due to the liquidation currently in process, this will be the final field audit determination on the taxpayer.

## PAYMENTS

If timely objection is NOT MADE, amount due shown on the notice is payable on or before the date indicated, and will be subject to delinquent tax collection procedures and Delinquent Tax Collection Fees if not paid by such date. The fees are the greater of \$35 or 6½% of the unpaid balance. The department may also take additional collection action, which could include filing a tax lien.

If you are not paying the amount due in full, please send your initial payment to the department along with the payment voucher prior to the due date. Any subsequent payment(s) should be mailed to the appeal address shown below.

If you cannot pay the full amount due by the due date, you may ask to make installment payments. It is the department's policy to not enter into formal payment arrangements until after the due date. It is to your advantage to pay the amount due in full rather than in installments to avoid the accumulation of additional interest and collection fees. In addition, installment agreements with the department are subject to a \$20 installment agreement fee and will not prevent the filing of a tax lien. You may obtain the Installment Agreement Request Form (Form A-771) by visiting our website at [www.dor.state.wi.us](http://www.dor.state.wi.us), by calling (608) 266-1961, or by writing to Wisconsin Department of Revenue, Mail Stop 1-151, PO Box 8951, Madison, WI 53708-8951.

## APPEAL RIGHTS AND PROCEDURES

If you are of the opinion that this notice is incorrect, please send your objection to the **WISCONSIN DEPARTMENT OF REVENUE, RESOLUTION UNIT, MAIL STOP 5-257, PO BOX 8906, MADISON, WI 53708-8906**, setting forth each item you claim is incorrect and the reason for your objection. Such objection must be **RECEIVED BY THE DEPARTMENT WITHIN 60 DAYS OF YOUR RECEIPT OF THIS NOTICE**.

If you wish to stop the accumulation of interest on the assessment during the appeal period, you may deposit the amount of the assessment, including any interest and penalty, with the Department of Revenue at the time the appeal is filed, or at any time while the appeal is pending before the Resolution Unit. You may, at any time while the appeal is pending before the Wisconsin Tax Appeals Commission or a court, deposit the total tax and interest with the State Treasurer. Any deposited amount which is later refunded will bear interest at the rate of 9% per year.

As an alternative, you may choose to pay the full amount of the assessment without filing a timely objection. If you later wish to contest some or all of the adjustments, you may file a claim for refund. This claim for refund must be filed on an amended return form within two or four years from the notice date, depending on the tax years involved (see below), and should set forth the items you feel are incorrect and the basis for your claim.

For tax years beginning before January 1, 2000 (1999 and prior tax years), the claim for refund must be filed on an amended return form within two years of the assessment notice date.

For tax years beginning on or after January 1, 2000 (2000 and subsequent tax years), the claim for refund must be filed on an amended return form within four years of the assessment notice date.

**CAUTION:** This claim for refund procedure may NOT be used if any part of the assessment was the subject of a timely filed appeal

### Instructions

If you are making a payment:

- Make your payment payable to **Wisconsin Department of Revenue**
- Write your tax account number in the memo portion of your check
- Mail your payment in the enclosed envelope along with this payment voucher. If you do not have the envelope provided, mail your payment to the following address:

**Wisconsin Department of Revenue  
P.O. Box 930208  
Milwaukee, WI 53293-0208**

CIRCUIT CITY STORES, INC.

WISCONSIN DEPARTMENT OF REVENUE  
INCOME, SALES & EXCISE TAX DIVISION

EXHIBIT A-B

File #: 200-0000341401-02

COMPUTATION AND SUMMARY OF  
ADDITIONAL FRANCHISE TAX, INTEREST & PENALTY850 MAYLAND DRIVE  
RICHMOND, VA 23233

TAXABLE PERIOD	03/01/2002	03/01/2003	03/01/2004	03/01/2005	03/01/2006	TOTAL
REFERENCE	02/28/2003	02/28/2004	02/28/2005	02/28/2006	02/28/2007	
ADJUSTED NET INCOME						
NET INCOME PREVIOUSLY COMPUTED	\$0	\$1,165,875	\$827,137	\$0	\$0	\$0
ADDITIONAL NET INCOME	\$0	\$1,165,875	\$827,137	\$0	\$0	\$1,993,013
ADJUSTED FRANCHISE TAX	\$0.00	\$92,104.16	\$65,343.86	\$0.00	\$0.00	\$157,448.02
REBUS: RECYCLING SURCHARGE	\$25.00	\$2,783.12	\$1,960.32	\$25.00	\$0.00	\$4,773.44
LESS: SALES TAX CREDIT	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
OTHER CREDITS						
ADJUSTED NET FRANCHISE TAX	\$25.00	\$94,887.28	\$67,304.18	\$25.00	\$0.00	\$162,221.46
AMOUNT PREVIOUSLY ASSESSED	\$25.00	\$25.00	\$25.00	\$25.00	\$0.00	\$100.00
ADDITIONAL FRANCHISE TAX	\$0.00	\$94,842.28	\$67,279.18	\$0.00	\$0.00	\$162,121.46
DEFERRED INTEREST - SECTION 71.82(1)(a or b))	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
ASSESSMENT INTEREST - SECTION 71.82(1)(a) at 12% to 4/30/2009	\$0.00	\$56,468.83	\$31,984.34	\$0.00	\$0.00	\$88,453.17
DEFERRED INTEREST - SECTION 71.82(2)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
PENALTY (SECTION 71.83(1)(a)2) at 25%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
PENALTY (SECTION 71.83(1)(a)1) at 25%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
PENALTY (SECTION 71.83(1)(a)7) at 25%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
PENALTY (SECTION 71.83(1)(b)1) at 100%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
DEFERRING FEE (SECTION 71.83(3))	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
UNDERPAYMENT INTEREST (SECTION 71.84(2))		\$6,428.10	\$4,525.61			\$10,953.71
INTEREST (SECTION 71.91(1)(e)) at 18% to 4/30/2009		\$5,740.91	\$3,227.19			\$8,968.10
ADDITIONAL FRANCHISE TAX, INTEREST AND PENALTY	\$0.00	\$163,480.12	\$107,018.32	\$0.00	\$0.00	\$270,498.44

FINDINGS DISCUSSED WITH: JEREMY EWELL - STATE INCOME TAX MANAGER

AUDITOR: DAVID B. SCOTT

Case 08-35653-KRH